



October 23, 2008

## EX PARTE PRESENTATION

Chairman Kevin Martin  
Commissioner Michael Copps  
Commissioner Jonathan Adelstein  
Commissioner Deborah Tate  
Commissioner Robert McDowell  
Federal Communications Commission  
445 12<sup>th</sup> Street SW  
Washington, DC 20554

*Re: Developing a Unified Intercarrier Compensation Regime, CC Docket No. 01-92; IP-Enabled Services, WC Docket No. 04-36; Universal Service Contribution Methodology, WC Docket No. 06-122.*

Dear Commissioners:

The Nebraska Telecommunications Association (NTA) makes this filing on behalf of its members to express its serious concerns with the FCC's pending vote on intercarrier compensation and universal service reform. This draft order being circulated to the Commission would radically affect consumers in the rural state of Nebraska as well as critical telecommunications services compensation for our membership.

For this vote, the Commission is contemplating adoption of a proposal for a unified intercarrier compensation regime consisting of a \$0.0007 per minute termination rate<sup>1</sup> for all carriers.<sup>2</sup> The

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<sup>1</sup> In its various filings, AT&T has taken inconsistent positions concerning the disposition of originating rates. See Letter from Brian Benison, AT&T, to Marlene H. Dortch, FCC, CC Docket No. 01-92; WC Docket No. 05-337; CC Docket No. 96-45; WC Docket No. 99-68; WC Docket No. 07-135 (Sept. 12, 2008); Letter from Brian Benison, AT&T, to Marlene H. Dortch, FCC, CC Docket No. 01-92; WC Docket No. 05-337; CC Docket No. 96-45; WC Docket No. 99-68; WC Docket No. 07-135 (Oct. 7, 2008); Verizon's proposal, on the other hand, advocates dealing immediately with terminating rates by implementing severe rate reductions and proposing that the Commission issue a Further Notice of Proposed Rulemaking to reform originating access rates by December 31, 2009 further reducing access revenue for rural carriers. See Letter from Susanne A. Guyer, Verizon, to Chairman Martine and Commissioners Copps, Adelstein, Tate and McDowell, CC Docket No. 01-92 (Sept. 12, 2008) (Verizon Proposal).

NTA shares the concerns with other parties that have made filings in this proceeding, namely that rural carriers depend on cost-based access rates to provide high-quality, advanced services to customers in rural, high cost areas. Such drastic, sweeping reform and the resulting financial detriment to rural carriers would prohibit a rural carrier from any new or continued investment in the rural carriers' networks, including broadband deployment. Adopting a unified, terminating access rate that is not cost-based, jeopardizes the statutorily mandated principle of universal service, at the expense of the rural consumer.

Telecommunications industry policies have long recognized the distinct and different characteristics between rural and urban telecommunications providers, fairly taking into account that urban carriers generally serve densely-populated, compact geographic areas, while rural providers serve smaller numbers of end-users throughout large, sparsely-populated geographic areas. In recognition of these differences and the simple fact that providing service to consumers in small, rural areas cause serving carriers to incur much higher average investment and expense per subscriber line than providing service to consumers in urban areas, it has long been a legislative and regulatory priority to ensure reasonably comparable services at comparable rates between urban and rural areas. Congress as part of § 254 has specifically mandated that consumers in rural, high cost areas have access to telecommunications and information services, including interexchange services and advanced telecommunications and information services at rates comparable to what urban consumers receive.<sup>3</sup> If the Commission adopts a "one size fits all" intercarrier compensation regime, it will deprive rural carriers of the ability to provide rural consumers with basic telecommunications services or advanced services at the comparable rates which Congress has mandated.

The NTA concurs in the assertion that "there is no basis for imposing a single, uniform rate on all carriers."<sup>4</sup> Verizon's feeble attempt to justify the \$0.0007 per minute rate as "substantial evidence of a just and reasonable rate"<sup>5</sup> solely because Verizon has had recent experience negotiating interconnection agreements at this rate with large carriers such as AT&T and Level 3 completely ignores and disregards the very identifiable and recognized distinctions between larger carriers serving urban, low-cost areas and rural carriers serving high cost areas. Due to network variances and geographic locales, transport and termination costs do vary among

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<sup>2</sup> See Letter from Donna Epps, Verizon, to Marlene H. Dortch, FCC, CC Docket No. 01-92 (Sept. 19, 2008), attaching White Paper (Verizon); Letter from Susanne A. Guyer, Verizon, to Chairman Martin and Commissioners Copps, Adelstein, Tate and McDowell, CC Docket No. 01-92 (Sept. 12, 2008) (Verizon Proposal); Letter from AT&T, Verizon, The VON Coalition, et al., to Chairman Martin and Commissioners Copps, Adelstein, Tate and McDowell, WC Docket No. 04-36, CC Docket No. 01-92 (Aug. 6, 2008) (Coalition Proposal).

<sup>3</sup> 47 U.S.C. § 254(b)(3)

<sup>4</sup> Letter from Anne C. Boyle, Nebraska PSC, to Chairman Martin, FCC CC Docket No. 01-92 (Sept. 30, 2008); Letter from David Bergmann, NASUCA, to Chairman Martin, FCC, CC Docket No. 01-92 (Sept. 30, 2008), at pg. 2-3; Letter from Jonathan Lechter, Willkie Farr & Gallagher LLP (on behalf of Time Warner and One Comm.), to Marlene H. Dortch, FCC, CC Docket No. 01-92 (Oct. 2, 2008), presentation at 2-4.

<sup>5</sup> Verizon, pg. 31

carriers. As recent NECA studies have shown, a \$0.0007 per minute rate for rural companies would fail to even cover the administrative costs associated with billing the related traffic.<sup>6</sup>

The NTA shares the concerns expressed by the Nebraska Public Service Commission that creation of a new support mechanism without specifying a funding source or an economic basis for the amount of support needed may result in “excessive contributions from consumers to pay for the fund growth”<sup>7</sup> which further burdens consumers in tough financial times. In light of the current, nationwide financial crisis, consumers are being forced to prioritize the most basic of everyday necessities, including groceries, healthcare and utilities. Rural telecommunications consumers should not be faced with further financial difficulty for essential telecommunications services. As devastating as the pending proposals would be to the rural telecommunications industry and its end-users due to the immediate decline in terminating access, the Commission needs to thoroughly evaluate all aspects of these proposals.

The plans purport to do away with originating access as well, financially straining rural consumers even further and amplifying the need for specific, predictable and sufficient replacement support, which is not demonstrated in these proposals. As noted above, it would not be responsible for the Commission to adopt a plan without comprehensively analyzing the effect a \$0.0007 per minute rate would have not only on rural carriers dependent on access revenues for network investment, but also on the rural consumers who would be expected to shoulder the burden in the form of increased telephone service rates in contravention of the goals of universal service.

The policy implications are clear; if the Commission blindly adopts a “one size fits all” intercarrier compensation regime, the Commission is actively participating in the demise of rural network investment, increased service rates for rural consumers, and the potential that rural carriers will no longer have the means to provide their customers with the quality, advanced services and comparable rates Congress mandated when it enacted § 254(b)(3). Consequently, the Commission needs to seriously consider those policies and the ensuing effect a \$0.0007 per minute rate will have on the carriers. While AT&T and Verizon, the companies proposing the \$0.0007 rate, stand to gain billions of dollars in financial windfalls, this rate has the likely potential of driving rural carriers out of business and leaving rural consumers with little, if any, option for high quality and reliable local and broadband service.

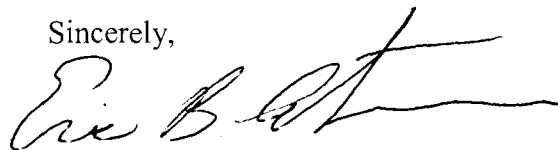
In summary, the NTA appreciates the time constraints that the FCC is operating under with respect to the narrower issue within the Core Remand mandate. We ask that the November 4<sup>th</sup> vote focus on the issue of compensation for ISP-bound traffic only, and that the Commission instead Notice and provide opportunity for further comment on the many weighty issues with regard to modifications to the unified intercarrier compensation mechanism and the universal service contribution methodology.

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<sup>6</sup> NECA, pg. 2

<sup>7</sup> *Id.*

Sincerely,

A handwritten signature in black ink, appearing to read "Eric B. Carstenson". The signature is fluid and cursive, with a long horizontal stroke at the end.

Eric B. Carstenson, President  
Nebraska Telecommunications Association